

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KEVIN WILLIAM HANNA,

Plaintiff,

v.

LEHIGH COUNTY DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

CIVIL ACTION NO. 22-4305

ORDER

AND NOW, this 25th day of March 2024, upon consideration of Defendants' Motion to Dismiss [Doc. No. 22], and the response thereto, and for the reasons set forth in the accompanying Memorandum Opinion, it is hereby **ORDERED** that Defendants' motion is **GRANTED** in part and **DENIED** in part as follow:

1. The Motion is **DENIED** as to the following claims, which shall proceed:
 - a. The Fourteenth Amendment Due Process claim against Defendants Russell, Maldonado, Wildey, and Ramos based on the unsanitary conditions of his cell, his placement in a new cell with a violent inmate, and the failure to be provided a bottom bunk;
 - b. The Fourteenth Amendment Due Process claim against Defendant Maldonado for inadequate medical treatment; and
 - c. The First Amendment Retaliation Claim against Defendants Russell, Maldonado, Wildey, and Ramos.
2. The Motion is **GRANTED** as to the following claims, which are **DISMISSED WITH PREJUDICE and without leave to amend**:
 - a. All claims against Defendants Lehigh County Department of Corrections, Grievance Coordinator Douglas Mette and Correctional Officer Jane Doe and the Clerk of Court is directed to **TERMINATE** these Defendants as parties
 - b. Hanna's Negligence Claim against Defendants Russell, Maldonado, Wildey, and Ramos as it is barred by Pennsylvania's Political Subdivision Tort Claims Act.

3. The Motion is **GRANTED** as to the following claims, which are **DISMISSED WITHOUT PREJUDICE and with leave to amend**:
 - a. All claims against Director of Corrections Janine Donate and the Clerk of Court is directed to **TERMINATE** this Defendant as a party at this time;
 - b. Hanna's Fourteenth Amendment due process claim against Defendants Russell, Wildey and Ramos for inadequate medical treatment after the attack; and
 - c. The Fourteenth Amendment Equal Protection Claim against Defendants Russell, Maldonado, Wildey, and Ramos.
4. Plaintiff is granted leave to file an amended complaint no later than **April 26, 2024**. Any amended complaint must identify each defendant in the caption and the body of the filing, and shall state the basis for Hanna's claims by providing as much information as possible about the "who," "what," "where," and "when" surrounding the incident or incidents giving rise to the claims. The amended complaint shall be a complete document that does not rely on the initial Complaint or other papers filed in this case to state a claim and should explain the relevant facts underlying each claim that Hanna intends to bring. The amended complaint **must** include all claims in one document, including the claims that have not been dismissed in this Order. When drafting his amended complaint, Hanna should be mindful of the Court's reasons for dismissing the claims in his Complaint, as explained in the Court's Memorandum Opinion.
5. The Clerk of Court is **DIRECTED** to send Hanna a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Hanna may use this form to file his amended complaint if he chooses to do so.¹

¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

6. If Hanna does not file an amended complaint, the Court will conclude that Hanna intends to stand on his Complaint and Defendants shall answer the Complaint no later than **May 17, 2024**.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.